



Reprinted
February 6, 2009

HOUSE BILL No. 1080

DIGEST OF HB 1080 (Updated February 5, 2009 3:47 pm - DI 113)

Citations Affected: IC 6-2.5.

Synopsis: Sales tax exemption for home energy assistance. Makes the sales tax exemption for low income home energy assistance permanent. (Current law provides that the exemption expires July 1, 2009.) Broadens the sales tax exception for certain isolated or occasional sales of tangible personal property at auction by removing the requirement that the isolated or occasional sale at auction occur on the premises of the owner of the tangible personal property.

Effective: July 1, 2009.

Day, Murphy, Welch, Barnes

January 7, 2009, read first time and referred to Committee on Ways and Means.
February 3, 2009, reported — Do Pass.
February 5, 2009, read second time, amended, ordered engrossed.

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HB 1080—LS 6104/DI 113+



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February 6, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1080

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-4-5, AS AMENDED BY P.L.32-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 5. (a) As used in this section, a "power subsidiary"
4 means a corporation which is owned or controlled by one (1) or more
5 public utilities that furnish or sell electrical energy, natural or artificial
6 gas, water, steam, or steam heat and which produces power exclusively
7 for the use of those public utilities.

8 (b) A power subsidiary or a person engaged as a public utility is a
9 retail merchant making a retail transaction when the subsidiary or
10 person furnishes or sells electrical energy, natural or artificial gas,
11 water, steam, or steam heating service to a person for commercial or
12 domestic consumption.

13 (c) Notwithstanding subsection (b), a power subsidiary or a person
14 engaged as a public utility is not a retail merchant making a retail
15 transaction in any of the following transactions:

16 (1) The power subsidiary or person provides, installs, constructs,
17 services, or removes tangible personal property which is used in

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connection with the furnishing of the services or commodities listed in subsection (b).

(2) The power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter.

(3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.

(4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:

(A) The services or commodities are sold to a business that after June 30, 2004:

- (i) relocates all or part of its operations to a facility; or
- (ii) expands all or part of its operations in a facility;

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)), a military base recovery site designated under IC 6-3.1-11.5, or a qualified military base enhancement area established under IC 36-7-34.

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

(D) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(1), the business must satisfy at least one (1) of the following criteria:

- (i) The business is a participant in the technology transfer

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program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business is a United States Department of Defense contractor.

(iii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

(E) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(2), the business must satisfy at least one (1) of the following criteria:

(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

(5) The power subsidiary or person sells services or commodities that:

(A) are referred to in subsection (b); and

(B) qualify as home energy (as defined in IC 6-2.5-5-16.5);

to a person who acquires the services or commodities after June 30, 2006, ~~and before July 1, 2009~~, through home energy assistance (as defined in IC 6-2.5-5-16.5).

SECTION 2. IC 6-2.5-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) A person is a retail merchant making a retail transaction when ~~he~~ **the person** sells tangible personal property at auction.

(b) Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when **selling tangible personal property at auction if the owner of the tangible personal property:**

(1) ~~he~~ makes **only** isolated or occasional sales of tangible personal property at auction; **and**

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(2) the sales occur on the premises of the owner of the tangible personal property; and

(3) (2) the owner of the tangible personal property did not originally acquire that property for resale.

SECTION 3. IC 6-2.5-5-16.5, AS AMENDED BY P.L.32-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16.5. (a) The following definitions apply throughout this section:

(1) "Home energy" means electricity, oil, gas, coal, propane, or any other fuel for use as the principal source of heating or cooling in residential dwellings.

(2) "Home energy assistance" means programs administered by the state to supply home energy through the Low Income Home Energy Assistance Block Grant under 42 U.S.C. 8261 et seq.

(b) **After June 30, 2006**, transactions involving home energy **acquired through home energy assistance** are exempt from the state gross retail tax. ~~if the person acquiring the home energy acquires it after June 30, 2006, and before July 1, 2009, through home energy assistance.~~

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1080, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 24, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1080 be amended to read as follows:

Page 3, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 2. IC 6-2.5-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) A person is a retail merchant making a retail transaction when ~~he~~ **the person** sells tangible personal property at auction.

(b) Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when **selling tangible personal property at auction if the owner of the tangible personal property:**

- (1) ~~he~~ makes **only** isolated or occasional sales of tangible personal property at auction; **and**
- (2) ~~the sales occur on the premises of the owner of the tangible personal property; and~~
- (3) ~~(2) the owner of the tangible personal property did not originally acquire that property for resale."~~

Renumber all SECTIONS consecutively.

(Reference is to HB 1080 as printed February 3, 2009.)

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